

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAVID THOMPSON,

Case No. 3:23-cv-00341-MMD-CSD

Plaintiff,

ORDER

v.

PERRY RUSSELL, et al.,

Defendants.

This action began with a pro se civil-rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. (ECF No. 3). The Court entered a screening order on March 13, 2024. (ECF No. 7). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 7, 12). The parties did not reach a settlement at the mediation conference. (ECF No. 18). And Plaintiff moves the Court to extend his copy-work limit by \$50. (ECF No. 19).

Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter. The Court therefore grants Plaintiff's application for *in forma pauperis* status. But this status does not afford Plaintiff free and unlimited photocopying. See 28 U.S.C. § 1914(b) (requiring the court clerk "to collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States"); *see also Gluth v. Kangas*, 951 F.2d 1504, 1510 (9th Cir. 1991) (affirming injunction that did not require the department to provide indigent prisoner litigants "free and unlimited copying"). Nor does an inmate have a constitutional right to free photocopying. *Johnson v. Moore*, 948 F.2d 517, 521 (9th Cir. 1991).

NDOC Administrative Regulation 722.01(7)(E) provides that inmates "can only accrue a maximum of \$100 debt for copy work expenses for all cases, not per case." Courts in this district have found that they can order a prison to provide limited photocopying when it is necessary for an inmate to provide copies to the court and other

1 parties. See *Allen v. Clark Cnty. Det. Ctr.*, 2:10-cv-00857-MMD-GWF, 2011 WL 886343,
2 *2 (D. Nev. Mar. 11, 2011). Because this action is proceeding onto the normal litigation
3 track, the Court will extend Plaintiff's copy-work limit by another \$5.

4 For the foregoing reasons, **IT IS ORDERED** that:

5 1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 3) is
6 **GRANTED**. Plaintiff will not be required to pay an initial installment of the filing fee. But in
7 the event that this action is dismissed, the full filing fee must still be paid under 28 U.S.C.
8 § 1915(b)(2).

9 2. Plaintiff is permitted to maintain this action to conclusion without the
10 necessity of prepayment of any additional fees or costs or the giving of security therefor.

11 3. Under 28 U.S.C. § 1915, the Nevada Department of Corrections will forward
12 payments from the account of **DAVID THOMPSON, #66826** to the Clerk of the United
13 States District Court, District of Nevada, 20% of the preceding month's deposits (in
14 months that the account exceeds \$10) until the full \$350 filing fee has been paid for this
15 action. The Clerk of the Court will send a copy of this order to (1) the Finance Division of
16 the Clerk's Office and (2) the attention of **Chief of Inmate Services for the Nevada**
17 **Department of Corrections** at formapauperis@doc.nv.gov.

18 4. The Clerk of the Court will electronically **SERVE** a copy of this order and a
19 copy of Plaintiff's first amended complaint (ECF No. 6) on the Office of the Attorney
20 General of the State of Nevada by adding the Attorney General of the State of Nevada to
21 the docket sheet. This does not indicate acceptance of service.

22 5. Service must be perfected within 90 days from the date of this order
23 consistent with Federal Rule of Civil Procedure 4(m).

24 6. Subject to the findings of the screening order (ECF No. 7), within 21 days
25 of the date of entry of this order, the Attorney General's Office will file a notice advising
26 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service;
27 (b) the names of the defendants for whom it does not accept service, and (c) the names
28 of the defendants for whom it is filing the last-known-address information under seal. As

1 to any of the named defendants for whom the Attorney General's Office cannot accept
2 service, the Office will file, under seal, but will not serve the inmate Plaintiff the last known
3 address(es) of those defendant(s) for whom it has such information. If the last known
4 address of the defendant(s) is a post office box, the Attorney General's Office will attempt
5 to obtain and provide the last known physical address(es).

6 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
7 will file a motion identifying the unserved defendant(s), requesting issuance of a
8 summons, and specifying a full name and address for the defendant(s). For the
9 defendant(s) as to which the Attorney General has not provided last-known-address
10 information, Plaintiff will provide the full name and address for the defendant(s).

11 8. If the Attorney General accepts service of process for any named
12 defendant(s), such defendant(s) will file and serve an answer or other response to the
13 first amended complaint (ECF No. 6) within 60 days from the date of this order.

14 9. Plaintiff will serve upon defendant(s) or, if an appearance has been entered
15 by counsel, upon their attorney(s), a copy of every pleading, motion or other document
16 submitted for consideration by the Court. If Plaintiff electronically files a document with
17 the Court's electronic-filing system, no certificate of service is required. Fed. R. Civ. P.
18 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. But if Plaintiff mails the document to
19 the Court, Plaintiff will include with it a certificate stating the date that a true and correct
20 copy of the document was mailed to the defendants or counsel for the defendants. If
21 counsel has entered a notice of appearance, Plaintiff will direct service to the individual
22 attorney named in the notice of appearance, at the physical or electronic address stated
23 therein. The Court may disregard any document received by a district judge or magistrate
24 judge that has not been filed with the Clerk, and any document received by a district
25 judge, magistrate judge, or the Clerk that fails to include a certificate showing proper
26 service when required.

27 10. This case is no longer stayed.
28

DATED THIS 30th day of May 2024.


UNITED STATES MAGISTRATE JUDGE